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NATURALIZATION AND CITIZENSHIP IN THE INSULAR POSSESSIONS OF THE UNITED STATES

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In order that the political status of the inhabitants of non-contiguous territory under the jurisdiction of the United States, known as its insular possessions, may be fully understood, it will be necessary to make a short historical summary of the origin, progress, and present political condition of the persons resident within the United States.

Prior to the proclamation of the Declaration of Independence, all persons resident within the thirteen original states were subjects of the king of Great Britain. Upon the proclamation of that wonderful document they at once changed their status from that of *subjects* to that of *citizens* of each of the respective states within which they resided.

That the Declaration, as a political document, was one of the most remarkable ever produced by man has never been controverted, but that it was charged with inaccuracies and platitudes is admitted by all students of history. That these were patent, not only before the ratification of the Constitution of the United States in 1787-88, but even in the short interval of one year between the Declaration and the adoption of the Articles of Confederation in 1777, is evidenced by the discussions in the Confederate congress, and the opposing views of the statesmen of that day in the Federalist, discussing, as those papers did, all their basic principles and all the important theories of government upon which the constitution was to be founded. Then came the Ordinances adopted by the Confederate congress in 1787 providing a system of regulations, and a form of government, for the enormous Northwest Territory acquired by cession from England, which were to be applicable also to the states or territories which might thereafter be erected therein. Then followed the ratification of the Constitution of the United States in 1787-88, and a comparison of the Declaration with that

document will show to every student the manner in which the experience of ten years had proven the programme of the Declaration to be both inadequate and impracticable, while the congressional discussions and papers in the *Federalist* had clarified nebulous ideas and enabled the formulation of political declarations into the Constitution of the United States, under which, with but few amendments, the United States of America has advanced from a feeble band of colonial settlers stretched along the Atlantic littoral, full of dissension among themselves, jealous of rights and privileges, uncertain as to what the future of the new nation should be, into a sovereignty stretching from the Atlantic to the Pacific, and beyond and around the world, until no longer can it be said of England alone that on *her* flag the sun never sets, and that *her* drum-beat *only* encircles the world.

The prosperity and progress of this Nation is unexampled in the history of the world. Never before in the knowledge of mankind has a nation grown to be so great on such firm foundation, with no trace of overweening aggrandizement of political power in any body of its inhabitants; with full and uninterrupted enjoyment of every civil and political right, with freedom of thought and expression in every private and public activity of man; with ample and continuous protection to life, liberty and property, and no governmental or legal restriction to "the Pursuit of Happiness" so dear to the fathers of our republic, and so diligently pursued by their descendants to this day.

Such solidity, such expansion, such progress and prosperity, such security, and such promise for the future have been and will be largely dependent upon the protection which the government and its laws throw around the political status of the persons who constitute its population. From the beginning of our history jealous care has been taken to grant liberal rights of citizenship to persons legally entitled thereto, and to guard with equal care the acquirement and exercise of such functions by persons disqualified, from any cause, to exercise the same without jeopardy to our system of government and to its administration.

Prior to the ratification of the Constitution of the United States, there existed within our borders two forms of citizenship: that of the States, and that under the Ordinances in the Northwest

Territory. Upon the ratification of the constitution there came into being a new form—Federal, American citizenship—a thing so prized by each one of us that no inducement would cause us to relinquish it, and yet so incorporeal, and playing so small a part in our lives, and so little affecting the exercise of our rights, that it is a surprise on examination to find how small a thing it really is.

No citizen of the United States, as such, exercises the right of suffrage. That is dependent entirely upon his residence in a State of the United States; no citizen of the United States, as such, has any important legal right, redress for which is not provided for and guaranteed under state laws, except the right to sue in federal courts; no direct taxation supports the government of the United States, and instances might be multiplied and distinctions drawn which would call even more forcibly to your attention the really small part this most prized attribute plays in the daily life of each of us.

You will all remember the magnetic and dramatic effect which one of the earlier declarations of citizenship produced. It was that of the Apostle Paul, who, when at Jerusalem, surrounded and attacked by a turbulent and hysterical mob, replied to the centurion who asked the cause of the disturbance: "*Civis Romanus sum.*" He was a citizen of the imperial nation among a rabble of outlanders, dependents, subjects, in a land held under military occupation, and the magic of the power of imperial citizenship has never been more forcibly marked than in the effect this declaration made both upon the mob, the centurion and the governor. Thousands of miles from the central government, in the midst of a hostile population, a mere declaration of an humble subject was sufficient to secure him protection, consideration and redress. *That* quality of American citizenship exists as a *right* in each one of us to-day, and that right will be as fully protected under the United States as under the Rome of the Cæsars.

All persons resident in any sovereignty fall into one of three classes, showing their political status, as "*citizens,*" "*nationals,*" and "*aliens.*"

A *citizen* is one who, within a particular state, possesses full civil and political rights. Such *citizenship* may be qualified by the conditions of sex, age, and mentality, and under such qualifica-

tions may include or exclude, on the one hand civil, as on the other, political rights. It has been said, in relation to American citizenship, that each citizen possesses "a homeopathically diluted dose of sovereignty." However this may be, never under any form of government has a citizen exercised so freely and fully the rights of individual sovereignty as in these United States.

Next after citizens, in the exercise of political rights, come persons who may be designated as "*nationals*." These are persons who owe allegiance to the United States, and are entitled to its reciprocal protection in their lives, liberty, and property, but who exercise no other function of citizenship, and are debarred from doing so until they comply with the requirements of the laws, state or federal, which confer the same. It has been observed, by an able writer, in relation to the status of such persons: "That term (*subject*), however, is one which is foreign to our legal system and alien to our train of thought. The term 'national' fits the case more accurately, and bears with it no unpleasant inference of political inferiority or servitude to an individual."

In this class there remain only Indians in tribal relation, and inhabitants of non-contiguous territory under the jurisdiction of the United States; as inhabitants of the Philippines, Porto Rico and Guam; the third classification is "*aliens*," who are persons owing allegiance to one sovereignty, but resident in another.

Citizenship in the United States can be acquired in but two ways. By *birth* under the *jus sanguinis*, and by *naturalization*, under the *jus soli*. Under the law, all persons born within the confines of continental United States are citizens thereof, and this is true though they be born of parents, such as Chinese, or other Orientals who, if born out of the United States, can never acquire citizenship therein.

Aliens who are white, or of African or mixed African and white blood may, under the laws of the United States (Rev. Stat. 2169), become full citizens upon compliance with the naturalization laws of the United States.

It will surprise some of you, no doubt, to learn that inhabitants of non-contiguous territory under the jurisdiction of the United States may, in like manner, under the Naturalization Act, become citizens of the United States.

In order to become a citizen, it is requisite that an alien, two years prior to his admission, should renounce his allegiance to the foreign prince or potentate, or government of which he has been theretofore a subject or citizen, and declare his desire to become a citizen of the United States, and his intention of permanent residence therein. At the expiration of at least five years' residence in the United States, upon proof by witnesses, before a proper court, of his compliance with the law, such alien is given papers which entitle him to exercise all the political and civil rights of citizenship.

Until the passage of the naturalization law approved June 29, 1906, it was impossible for an inhabitant of the insular possessions of the United States to become a full citizen thereof, for various reasons, among which were the following:

Under the Treaty of Paris, in its Article IX, provision was made for the retention, by those who desired it, of their Spanish citizenship, and it was declared that all persons who had not availed themselves of this permission should, after the expiration of a fixed period, be held to have transferred their allegiance from Spain to the United States.

The Supreme Court of the United States in the Insular Cases has decided that the Philippines and Porto Rico have not, since the cession by Spain, constituted *foreign* territory, and also that such possessions are not *domestic* territory. These decisions left the inhabitants of the islands in an unfortunate situation, being neither "fish, flesh nor devil;" they were literally "men without a country" in the large sense. True, they were residents of Porto Rico or the Philippines, as the case might be; and, under the terms of the Treaty of Paris, and the respective organic acts, Porto Rican and Philippine citizenship were created. But neither carries with it United States citizenship. Furthermore, no provision has ever been made, either under the treaty or under any act of congress, for the naturalization of aliens resident in insular territory, as citizens of such territory, although such relief has been frequently sought, and is urgently needed.

In the endeavor made by insular inhabitants to obtain Federal citizenship, it was found impossible to comply with the *Federal* requirement of renouncing allegiance, because the only allegiance they

owed to the United States. The new Federal naturalization laws require applicants to go before the designated courts in continental United States, but no courts with naturalization jurisdiction have been erected or authorized either in Porto Rico or the Philippines. The relief granted, under the new law, while only partial, is still a distinct advance, and is stated and conferred in section thirty of the naturalization law of June 29, 1906, as follows:

That all the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any state or organized territory of the United States, with the following modifications: The applicant shall not be required to renounce allegiance to any foreign sovereignty; he shall make his declaration of intention to become a citizen of the United States at least two years prior to his admission; and residence within the jurisdiction of the United States, owing such permanent allegiance, shall be regarded as residence within the United States within the meaning of the five years' residence clause of the existing law.

The practical result of this section is that an insular inhabitant, possessing the other qualifications of an alien, who has resided in any of the islands for a period of three years or more, may come to the United States, and by declaration that he desires to become a citizen of the United States, and to permanently reside within territory under its jurisdiction, may receive his *first papers*, and two years thereafter, upon proper proof to a court of requisite jurisdiction that he has complied with the provisions of the naturalization law, he may become a full citizen of the United States, and may thereafter choose his residence with the same freedom as any other citizen. This is somewhat less than the extension of the privilege desired by the insular inhabitants, and urged by those of us who are charged with the administration of their affairs, in that requisite jurisdiction is not conferred upon courts outside continental United States, but it is a distinct enlargement of political privilege, and a wise restriction upon its extension to peoples whose ability for self-government is still in the experimental stage.

In the history of our country, with relation to its various acquisitions of territory, *collective naturalization* had been granted to all inhabitants of ceded territory until the Spanish war. Such

was the case with the cessions of Louisiana, Florida, Texas and Alaska; in each of these cases the population was of a character and homogeneity which rendered it easily assimilable with the corpus of the population of the country. In like manner, though with differences that have created anomalies, on the annexation of Hawaii all persons who were citizens of the republic of Hawaii on the date of the formal transfer of sovereignty to the United States (August 12, 1898), were declared to be citizens of the United States and citizens of the Territory of Hawaii (Act of Congress, April 30, 1900, sec. 4). One of the anomalies consists in the fact that Chinese persons, born or naturalized in the Hawaiian Islands prior to the date of transfer, although excluded by the laws of the United States from citizenship, nevertheless, by this *collective naturalization*, have become full citizens of the United States.

There is ample precedent for the creation of the status of "*nationals*," in the action of France in the case of Algiers, and other familiar instances, notably that of India, where the character of the population, being Oriental, is fundamentally different from that of the sovereignty acquiring the territory and therefore unassimilable with the general body of sovereign citizens. While allegiance has been exacted, and protection granted, and civil rights guaranteed, no political status has been conferred, and it has not been the subject of observation or criticism, either on the part of such peoples, or in any international tribunal, that under such circumstances *full* political rights have been denied.

As an experiment in altruism, unexampled in the world's history, stands the conduct of the United States toward its insular possessions and their inhabitants. No other nation has ever acquired territory separate from it, without both the intention and the practice of aggrandizement. The declaration of war with Spain in April, 1898, was dictated by the sole purpose of mitigating and rendering impossible the conditions of government prevalent in Cuba, which were shocking to the whole civilized world, and against which the United States, by propinquity and territorial interest, was the only sovereignty which could, unopposed and uncriticised by neutral powers, intervene to relieve. With the result of such intervention we are all familiar, and an experiment which promised at first to be confined locally to the territory and people almost

touching our southern boundary, by an unforeseen and inevitable sequence of events, has included the acquisition of territory and the allegiance of peoples as widely separated as the poles, and as different in racial characteristics, in degree of development, material pursuits, and divergence in form of government, as it is possible for peoples to be.

The capture of Cuba, and the ending of the war, were followed there by the creation of a government and the turning over of the country to its inhabitants, in a solvent and orderly condition; in the hope that the experience of the past, and proper appreciation of the motives of the United States, would render it unnecessary for this country to again intervene to save Cuba, not from foreign oppression, but from internecine destruction. That hope has not been fully justified, and we are again in Cuba.

Quite different is the situation with relation to Porto Rico. Within one year after the ratification of the Treaty of Paris, an organic act, containing a form of government and a bill of rights, was put in operation for Porto Rico. Porto Rican citizenship was conferred upon its inhabitants; courts, both federal and local, were established within it; a form of government, with legislative assemblies, and a lower house, elective by the people, was created; free trade with the United States was established, and our great markets were opened to the productions of that island. At one point the experiment went too far, as events have shown. Trial by jury was conferred upon a population that had hitherto been ruled, *not* by law, but by a man. This was going too far, as has been seen, when it became effective in a population elated by the rebound, and accustomed to a subject state; one which neither by education nor experience was qualified for the exercise of functions of citizenship. It required some demonstration to prove that all peoples do not possess the self-restraint and character of mind which enables them to judge between their fellowmen.

Repeated effort has been made by the Porto Ricans to obtain *collective naturalization* as citizens of the United States, but the congress, in its wise judgment, has been unwilling to extend this privilege until the people by their local conduct of affairs have shown themselves, both deserving and *capable* of its exercise.

With relation to the Philippines, affairs have been conducted

on somewhat different lines. The organic act of the Philippines, approved July 1, 1902, containing a bill of rights, created a form of government in a commission which possesses legislative powers; courts, local to the Philippines; provided sources of revenue by taxation and customs; and a representative assembly, at such time as a census, necessary to fix the status, qualifications and number of electors, should have been taken, and a condition of general tranquillity should have prevailed for a sufficient period to give assurance of its continuance. The pre-requisites as to a representative assembly have been complied with. An electoral law has been passed. Elections will be held during the coming summer, and a representative assembly, in its nature analogous to that of Porto Rico, and constituting a lower house, will be placed in operation in the autumn of this year. This will create in large measure autonomous government for these islands, and will confer rights of citizenship heretofore as undreamed of by the inhabitants of those islands, as our administration of its affairs—with wisdom, forbearance, justice and probity—has been beyond any hope, except that wild desire for change, engendered in the mind of the Filipino (without either solidity of purpose, or ability to maintain a settled government), which animated revolts against the Spanish sovereignty prior to our occupation.

Complete systems of free, primary, and secondary education are provided for the whole population of these islands. Chosen youths, several hundred in number, are being educated within continental United States, in a generous way, at the expense of the Philippine government. No portion of any charge for the maintenance of government or its activities falls upon any citizen of continental United States, but on the contrary, instead of giving the products of the Philippine Islands free and open entrance to the markets of the United States, as is the case with Porto Rico, or instead of imposing a differential of 20 per cent of the Dingley tariff, as is the case with Cuba, with which we have much less governmental concern, an impost of 75 per cent of the Dingley tariff is placed upon every product of the Philippine Islands landing at our ports. That this is unjust, that it retards the material progress of those islands, that such retardation hinders the commercial development, and, therefore, the civilization of the inhabitants, is a matter too

often proven, before congressional committees in endeavors to obtain relief, to need any argument here. The statement carries with it the conviction.

The result will be that, unless such relief is afforded to the Philippines, the inhabitants of Porto Rico will long be qualified and have granted to them full rights of citizenship of the United States, before the Filipinos, languishing under this discrimination, even with the benefits of education and an autonomous local government, will have qualified themselves, in their national character, for such privilege.

The persons most nearly concerned with their administration and development, the persons who have devoted years of their lives, with self-abnegation and at a sacrifice, to the betterment of this race; who have, by personal contact, by observation, by wise government, qualified themselves better than all others to rightly judge of Philippine affairs, have publicly stated, on repeated occasions, that, unless present conditions are ameliorated, generations may pass before the inhabitants of the Philippines will possess the attributes and the qualifications necessary to entitle them as a people to admission into full citizenship of the United States.

That the programme which has been adopted in the government of the insular possessions of the United States has received the approval of the majority of the American people, is certain. That, in the matter of citizenship, there has been no deliberate unjust discrimination against these peoples, is as certain. What they shall become, how they shall progress, how quickly they will be developed to a point where amalgamation with continental United States, in greater or less degree, will produce no national disturbance, rests not so much with the *executive* administration of their local affairs, as with the relief and assistance which only the congress of the United States can grant.

As a whole, and in conclusion, since the acquisition of this territory by the United States in 1898, every rational method for the qualification of the inhabitants for the exercise of a measure of political right has been steadfastly and consistently pursued. Ability for citizenship comes either by inherited trait or by education. These peoples had no qualification by inheritance, and the programme of education has extended over such a short period of

time, with so many limitations and interruptions, that unless we survey in detail the progress that has been made, the results desired would seem to be indefinitely deferred.

In the nine years of our occupation and ownership, stable governments have been erected; security has been conferred on life, liberty and property; freedom of speech, and open courts above reproach, exist everywhere; popular education, free as in the United States, is available to every inhabitant; local laws and customs have been adopted unmodified, except as inapplicable to our theory of government. The peoples have been freed from exaction and oppression, sanitation has greatly diminished mortality and disease; stable titles to lands can now be obtained in all our possessions. Scientific research and practical work on industrial and laboratory lines have opened possibilities of commercial activity and agricultural development before unsuspected, and if timely relief is afforded by congress, and with patient effort these people are led and encouraged by education and example in lines of integrity, and order, and industry, such progress will be made, in the experience of living man, as will remove all thought of their being a menace to our institutions, and will constitute them valuable accessories to our national development.